IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

Crl.MC.No. 2239 of 2007()

CMP.2184/2007 of CHIEF JUDICIAL MAGISTRATE COURT, THODUPUZHA

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PETITIONER:

K.K.ISMAIL, AGED 47 YEARS,
S/O KUNJUMON, NIRAPPEL HOUSE,
VAZHAPPALLIKARA, VELLURKUNNAM VILLAGE,
MUVATTUPUZHA.

BY ADV. SRI.JOY GEORGE
SMT.PRAICY JOSEPH

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
THODUPUZHA POLICE STATION,
THODUPUZHA, IDUKKI DIST.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.2239 Of 2007

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Dated this the 24th day of July, 2007

ORDER

The petitioner claims to be the registered owner of a vehicle Swaraj Mazda Lorry bearing Registration No. KL 02/ N 2728. Alleging that the said vehicle was used for illicit transfer of wheat, it was seized in Crime No.409/2007 of Thodupuzha Police Station. The petitioner applied for release of the vehicle. That prayer was rejected by the learned Chief Judicial Magistrate by Annexure A7(a) order. The petitioner has come to this Court aggrieved by the said order ie. Annexure A7(a).

2. The learned counsel for the petitioner submits that the petitioner is undisputedly the owner of the vehicle. No confiscation proceedings has been initiated so far. Subject to the liability to make the vehicle available for confiscation if a proper order of confiscation is ultimately passed under the provisions of Essential Commodities Act or the Code to Criminal Procedure the vehicle may now be released to the petitioner subject to appropriate conditions, prays the learned counsel for the petitioner. The learned Public Prosecutor does not raise any objections. He only submits that appropriate conditions may be imposed to ensure that the vehicle will be available before the Court and the authorities concerned, if and when the order is ultimately

passed for confiscation under the provisions of the Essential Commodities Act or otherwise.

3. I am satisfied that the prayer of the petitioner can be allowed and appropriate conditions can be issued. In the result, this petition is allowed. Annexure A7(a) is set aside. It is directed that the vehicle shall be released to the petitioner on the following terms and conditions.

i) He shall produce before the learned Magistrate all documents to show that he is the registered owner entitled to the possession of the vehicle.

ii) He shall execute a bond for an amount equal to the value of the vehicle to be fixed by the learned Chief Judicial Magistrate, along with two solvent sureties each for the like sum to the satisfaction of the learned Chief Judicial Magistrate.

iii) In such bond he shall specifically undertake to produce the vehicle before the learned Chief Judicial Magistrate or before the appropriate authority under the Essential Commodities Act, if any order of confiscation were ultimately passed, and he is called upon to produce the vehicle.

(R.BASANT, JUDGE)

sj